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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,564	01/12/2004	Ola Olofsson	TPP 30887DIV	8238

7590

07/15/2004

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EXAMINER

FLANDRO, RYAN M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

SUPPLEMENTAL
Office Action Summary

Application No.

10/754,564

Applicant(s)

OLOFSSON ET AL.

Examiner

Ryan M Flandro

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/661,627.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

***SUPPLEMENTAL
DETAILED ACTION***

1. In accordance with MPEP §714.05 "Action Crosses Amendment, this action is responsive to Applicant's Second Preliminary Amendment of 13 May 2004 and supplemental to the action mailed 18 May 2004. For the convenience of the Applicant, the rejections set forth in the previous Office action have been repeated herein.

Claim Objections

2. Claim 20 is objected to because of the following informalities: claim 20 depends directly from claim 18 and recites "said vent". Claim 18 includes a "hole" but does not recite a "vent". For purposes of examination, the Examiner has read the term "vent" in claim 20 to refer to the "hole" recited in claim 18. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 14, 18-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson (US 5,618,602).

a. Claim 14. Nelson shows and discloses a joint formed at a junction between adjacent boards **10,12**, the joint comprising a first board **10**, comprising an upper surface

11, a lower surface 14 and a groove 16; a second board 12 joined to the first board 10, and comprising an upper surface 11, a lower surface 14, a tongue 26, a first equalizing cavity 32 located adjacent to an upper end of a proximal end of the tongue 26, wherein a distal end 29 of the tongue 26 is smaller than a proximal end 19 of the groove 16; and a second equalizing cavity formed by a gap between the proximal end 19 of the groove 16 and the distal end 29 of the tongue 26 (see figure 1).

b. Claim 18. Nelson shows and discloses a joint formed at a junction between adjacent boards 10,12, the joint comprising a first board 10, comprising an upper surface 11, a lower surface 14 and a groove 16; a second board 12 joined to the first board 10, and comprising an upper surface 11, a lower surface 14, a tongue 26, and said first board 10 and said second board 12 defining a gap 32 therebetween; and a hole 31 in fluid communication with said gap 32 (see figures 1 and 4).

c. Claim 19. Nelson further shows that said hole 31 extends from said joint towards a proximal section of said first board 10 (see figures 1 and 4).

d. Claim 20. Nelson further shows that said [hole] 31 extends towards said lower surface 14 of said first or second boards 10,12 (see figures 1 and 4).

e. Claim 21. Nelson further shows that said hole 31 is a vent through one of said boards 10 (see figures 1 and 4).

f. Claim 23. Nelson further shows and discloses a method for assembling floor boards to form a joint therebetween, the method comprising a first board 10, comprising an upper surface 11, a lower surface 14 and a groove 16; a second board 12 joined to the first board 10, and comprising an upper surface 11, a lower surface 14, a tongue 26, glue

20 disposed on said groove 16; mating said groove 16 of said first board 10 with said tongue 26 of said second board 12; and directing glue away from said upper surface 11 of said boards 10,12 (see figures 1-4; columns 3-5).

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 14-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-14 of U.S. Patent No. 6,682,254.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the patent contain each and every limitation recited in instant claims 14-17 in addition to other limitations.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to joints formed at a junction between boards:

U.S. Patent 6,505,452 to Hannig et al.

U.S. Patent 6,606,834 to Martensson et al.

U.S. Patent 6,588,166 to Martensson et al.

U.S. Patent 6,421,970 to Martensson et al.

U.S. Patent 6,418,683 to Martensson et al.

U.S. Patent 6,397,547 to Martensson

U.S. Patent 6,101,778 to Martensson

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan M Flandro whose telephone number is (703) 305-6952. The examiner can normally be reached on 8:30am - 5:30pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMF
July 3, 2004



John Cottingham
Primary Patent Examiner
Technology Center 3670